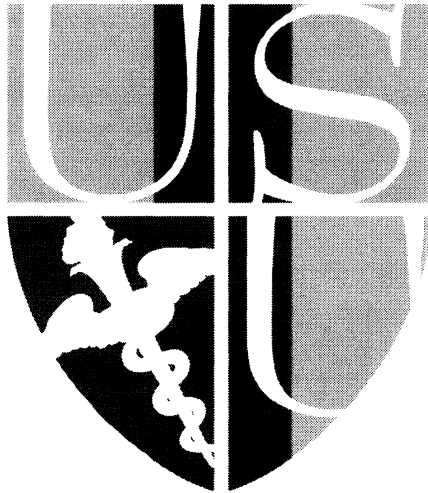


**USUHS  
INSTRUCTION  
1407**





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UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES



# INSTRUCTION

Date: May 11, 1992

USUHS-I 1407

Subject: Classification Appeals

- References:
- (a) USUHS Instruction 1407, "Classification Appeals," 25 June 1982 (hereby cancelled)
  - (b) Title 5, United States Code, Chapter 51
  - (c) Federal Personnel Manual (FPM), Chapter 511
  - (d) FPM Bulletin 511-23
  - (e) FPM Letter 511-9
  - (f) FPM Supplement 532-1
  - (g) USUHS Instruction 1008, "Employee Grievances," 13 October 1982.

Keywords: Classification, Appeal, Position, Position Description, Position Classification, Grade, Class, Series, Standard

## A. PURPOSE

This Instruction reissues reference (a) and redefines the policy of the Uniformed Services University of the Health Sciences (USUHS) concerning the receipt and adjudication of appeals of the classifications of employees' positions. This Instruction defines what constitutes a classification appeal, describes what can be appealed, and sets forth the procedures for an employee to file an appeal of his/her classification (references (b) through (f)).

## B. APPLICABILITY

This Instruction applies to all civilian employees of the University who are in graded positions, both in the

competitive and excepted service. USUHS employees who are in pay plan "AD" are excluded from the provisions of this Instruction.

### C. POLICY

1. It is the policy of USUHS to evaluate and classify all positions properly within the authority delegated to USUHS by the Office of Personnel Management (OPM), in accordance with reference (b).

2. All classifications are made impartially, without regard to any discriminatory bias, and are made solely through the application of published standards and authorized classification principles and policies.

3. It is the policy of USUHS to advise and assist any employee who is dissatisfied with the classification of his/her position to file a classification appeal either through the University classification appeal process or to OPM.

### D. PROCEDURES

#### 1. Description of an Appeal

An employee may file an appeal of his/her classification at any time. The filing of a classification appeal does not affect any other rights or privileges that the employee may have under other provisions of law or regulation.

#### 2. What May be Appealed

a. The employee may appeal for a determination on:

1) The correct class or grade of the official position description.

2) The inclusion or the exclusion of the position from the General Schedule.

3) Position title, if the applicable position classification standard prescribes a title or authorized area of specialization.

b. The University may appeal an OPM classification certificate on the classification of a USUHS position prior to the implementation date of the certificate, if it disagrees with the classification rationale, i.e., the determination of title, series, and grade, from OPM.

### 3. What May Not Be Appealed

a. The following issues are not appealable to OPM as part of the classification appeal process, but may be grievable under the USUHS' grievance procedures (reference (g)):

1) Inclusion or exclusion of a major duty in the official position description or the accuracy of the official position description.

2) An assignment or detail out of the scope of normally performed duties as outlined in the official position description.

3) The title of the position, unless an authorized title is specified in the appropriate position classification standard or fly sheet published by OPM, or if the title reflects a qualification requirement of the position or an area of specialization.

4) Inclusion or exclusion of a position from the Performance Management Recognition System (PMRS).

b. The following issues are not appealable nor are they reviewable under the USUHS' grievance procedures:

1) The class, grade, or pay system of a position to which the employee is detailed or temporarily promoted.

2) A proposed classification, e.g., a proposal prior to the University's taking a classification or a position action.

3) The classification of a position to which the employee is not assigned by an official personnel action.

4) The classification of the employee's position based on comparison with other positions and not with published OPM standards.

5) The adequacy of the classification criteria contained in an OPM published classification guide or standard.

6) The classification of a position which has been certified by OPM as a result of an employee or a USUHS appeal when there has been no change in the governing classification standards guide or major duties of the position.

### 4. Filing an Appeal

a. General Schedule (GS/GM) employees may appeal in the following ways:

1) By filing an appeal of the classification with the Directorate for Civilian Human Resources Management. If the employee is dissatisfied with the University's decision on his/her appeal, he/she may file a subsequent appeal with OPM. This option affords the employee the maximum number of reviews.

2) By filing an appeal to OPM through the Civilian Human Resources Management Directorate. The Assistant Dean for Executive Affairs then has 60 calendar days to adjudicate the appeal and to issue a written appellate decision. If the decision is unfavorable to the employee, USUHS must forward the appeal before the 60th day after receipt of the appeal, together with the University's written decision, to OPM for adjudication.

3) By filing an appeal directly with OPM.

4) Upon receipt of an appeal addressed to the University, the Civilian Human Resources Management Directorate may forward the appeal directly to OPM without issuing a final decision. If this option is elected, the University must notify the employee in writing of its intention and must secure the employee's concurrence with this action. If the employee does not want the appeal forwarded to OPM, the appeal will be cancelled by the University.

b. Federal Wage System (WG/WL/WS) employees must file any classification appeal first with the Directorate for Civilian Human Resources Management. Upon receipt of an unfavorable decision, the Wage System employee may then file an appeal with OPM.

c. If the employee has suffered a loss in grade or pay, is not entitled to retained grade or pay, and desires retroactive adjustments, his/her classification appeal must be filed with USUHS or OPM no later than 15 calendar days after the effective date of the reclassification action to obtain retroactive benefits.

## 5. Steps in Filing an Appeal

a. Employee classification appeals must be in writing.

b. The employee and the supervisor should resolve any disagreements over the duties and responsibilities of the position at USUHS before filing an appeal with OPM.

c. The appeal, whether it is made to USUHS or to OPM, should include the following information:

1) The employee's name, mailing address, and office telephone number.

2) The employing department or agency and the location of the position.

3) The exact organizational location of the employee's position within USUHS.

4) The employee's current title, series, and grade.

5) The requested title, series, and grade, or other classification action desired.

6) A copy of the employee's official position description, together with a statement that the employee agrees with the official description. If the employee feels that the position description is not accurate, he/she must provide his/her own description of the work and show what steps have been taken to have the position description changed.

7) A statement from the employee citing the reasons why the classification of his/her position is in error or why the position should be brought under or excluded from the General Schedule. In the statement, the employee should make reference to the position classification standards which support his/her point of view and address specific areas of disagreement with the agency's evaluation statement. The employee may also include a statement of facts which he/she feels may affect the final classification decision.

#### 6. Employee Representative

a. An employee may be represented in a classification appeal before OPM by a representative of his/her choice. That representative cannot be:

1) A supervisor with line or staff authority over the position.

2) Any personnel official of the agency who has classification authority over the position, i.e., personnel officer or position classification specialist.

b. The employee must notify the appropriate deciding OPM official in writing of the selection of a personal representative.

c. The representative must cooperate with OPM in processing the appeal and must provide information in the manner specified and in a timely fashion. The representative should relay instructions from OPM to the employee as quickly and as accurately as possible.

d. The selection of a representative does not convey the right to the representative to be present during any factfinding session which is conducted by OPM, which is responsible for making all determinations on methods for obtaining facts concerning the duties, responsibilities, and qualifications requirements.

e. The employee's representative may submit to OPM any information concerning the position, that is significant to its classification.

## 7. Cancellation of Appeals

An employee's appeal will be cancelled and the employee so notified in writing:

a. On receipt of the employee's written request for cancellation.

b. When the employee or the employee's representative does not furnish requested information or proceed with the appeal.

c. When the employee is no longer officially assigned to the position, unless there is a possibility of retroactive benefit.

## 8. Finality of Decision

a. A decision on a classification appeal which has been made by the Civilian Human Resources Management Directorate is appealable to the next higher level, which is the Office of Personnel Management.

b. The decision issued by OPM is in the form of a certificate, which will specify the correct title, series, and grade, or the proper pay system for the position. This decision is final unless it is reconsidered by OPM's Classification Appeals Office. There is no further right to appeal.

c. The decision is mandatory and binding on all administrative, certifying, payroll, disbursing, and accounting officials of the Government.

d. The deciding official will set an effective date for the USUHS implementation of the OPM classification certificate.

## 9. Reconsideration of an OPM Decision

a. A decision may be reopened when information is presented, in writing, which establishes a reasonable doubt as to the technical accuracy of an OPM classification decision, either

through an erroneous interpretation of a law, through a misapplication of established policy, or through new, relevant, and not previously considered information.

b. A request for reconsideration must be made in writing, either by the employee or by the University.

c. The request for reconsideration must be submitted to OPM's Classification Appeals Office no later than 45 days following the date of the original decision.

#### **E. RESPONSIBILITIES**

##### **1. The Director of Civilian Human Resources Management:**

a. Provides advice and assistance to any employee who is dissatisfied with the classification of his/her position.

b. Promptly notifies an employee, who suffers loss of grade or pay based on a classification decision, of the specific decision, the employee's right to appeal, and of the time limits for appeal with retroactive benefits.

c. Adjudicates any appeals filed by employees through the USUHS classification appeals process and notifies them of the results.

d. Forwards appeals to OPM if so directed by the employee, upon completion of an adjudication which is unfavorable to the employee, within a 60 calendar day time frame.

e. Provides any information required by OPM in its adjudication of an appeal.

f. Implements the final adjudication of the appeal as issued in a certificate from OPM.

##### **2. USUHS employees are responsible for:**

a. Reviewing the classifications of their positions and, if they are dissatisfied, filing classification appeals, either through the USUHS or the OPM classification appeals process.

b. Selecting a personal representative to represent them before OPM in their classification appeal, if they so choose.

##### **3. The Office of Personnel Management**

a. Evaluates any classification appeals forwarded, either directly or through the University, by any employee who is dissatisfied with his/her position classification.

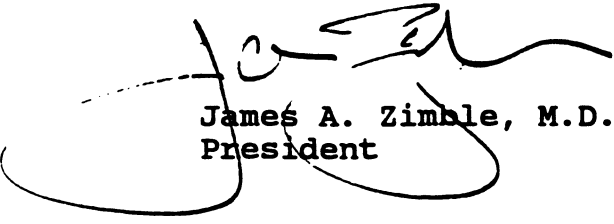


b. Performs any factfinding required to adjudicate the position.

c. Issues a final determination on the correct classification of the position, which is binding on USUHS and the employee.

F. EFFECTIVE DATE

This Instruction is effective immediately.



James A. Zimble, M.D.  
President

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FPM 15 Dec 89 CH 511 6 POSITION CLASSIFICATION APPEALS

Federal Personnel Manual (FPM)  
CH 511 6 (CH5116) - 15 Dec 89  
POSITION CLASSIFICATION APPEALS  
Subject: Position Classification - Appeals  
Office of Personnel Management - Appeals  
Right to Representation  
Classification Act of 1949  
Hardcopy Page Count: 8  
Fiche: 0415 B-06

6-1. SUMMARY

This subchapter describes the procedures governing the classification appeals program and outlines the steps to be followed by agencies and employees when submitting position classification appeals to the Office of Personnel Management (OPM).

6-2. SCOPE

This subchapter applies to positions in the General Schedule (GS or GM), except as otherwise noted. The following matters may be appealed to OPM under this subchapter.

- a. Inclusion in or exclusion from the General Schedule. (Employees of the Office of the Architect of the Capitol may not appeal this matter.)
- b. The occupational series of the position.
- c. Grade level.
- d. Position title, if the applicable position classification standard prescribes position titles or the title reflects a qualification requirement or authorized area of specialization.

These matters may be appealed even if the classification decision in question was made by OPM under its evaluation authority (section 5110, title 5, U.S.C.) or by the employee's agency as the result of an intra-agency classification consistency study required by OPM.

This subchapter does not apply to positions in the Senior Executive Service, to Administrative Law Judge positions, nor to positions classified to grades above GS/GM-15. Except for appendixes B, C, and E, it does not apply to position paid under the Federal Wage System. Procedures governing appeals of Federal Wage System positions are covered in FPM Supplements 532-1 and 532-2.

6-3. DEFINITIONS

For the purposes of this subchapter, the following terms have the meaning indicated:

- a. Classification action (also may be referred to as a position action). The decision classifying a position to a pay plan, occupational series, grade, and title in accordance with approved position classification standards.

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(Continued)

b. Personal action. Action taken to place an employee in a position or remove an employee from a position, e.g., by appointment, promotion, reassignment, demotion, or separation.

c. Classification appeal. A written request by an employee or by an agency (under sections 5103 or 5112) asking OPM to review the classification of a position.

d. Classification certificate. A final decision issued by OPM on the classification of a position. The certificate is mandatory and binding on all administrative, certifying, payroll, disbursing, and accounting officials of the Government.

e. Deciding officials. The persons in OPM who are delegated authority to make final decisions on classification appeals.

6-4. AUTHORITY

OPM authority for position classification is derived from the Classification Act of 1949 (chapter 51 of title, 5 U.S.C.) as amended. A decision issued under any of the following authorities is a classification certificate:

a. Pay system determinations. Under section 5103, title 5, U.S.C., OPM makes the final determination as to whether a position is included in or excluded from the General Schedule, except for positions located in the Office of the Architect of the Capitol.

b. Evaluation determinations. Under section 5110, title 5, U.S.C., OPM conducts periodic personnel management evaluations of executive departments and agencies. These evaluations may include a review of classification actions taken by the agency. If any of these actions are found to be incorrect, OPM will, after consultation with the agency, issue a certificate specifying the correct pay plan, title, occupational series, and grade.

c. Appeal determinations. OPM classification appeal certificates are issued under authority of <Page:511-17> section 5112, title 5, U.S.C.A. An appeal certificate is the Government's final administrative decision on the classification of the position, and no further appeal can be made. However, under certain conditions, OPM may, at its discretion, reopen and reconsider an appeal decision.

6-5. RESPONSIBILITIES

a. Office of Personnel Management responsibility. OPM issues final decisions as certificates of classification to:

(1) The head of the office that has responsibility for classifying the position(s); or

(2) The office that submitted the request to OPM; or

(3) The agency head.

b. Agency responsibility

(1) Adherence to OPM certificates. Employing agencies are responsible

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(Continued)

for assuring that a classification certified by OPM is not changed unless the job changes significantly or if the application of a newly issued OPM standard or guide would change the classification of the position. In the event that a position changes, agencies must exercise original classification authority (i.e., write a new position description which reflects new responsibilities, and classify accordingly).

(2) Agency file of certificates. Agencies must keep on file the certificates of classification issued by OPM. They may be filed with the position description to which they refer or filed separately. If kept in a separate file, the related position descriptions and certificates should be cross-referenced.

(3) Agencies should promptly report to OPM (Assistant Director for Agency Compliance and Evaluation) and promptly request further review by the issuing agency of any directed classification actions issued under other authorities that are inconsistent with OPM classification certificates, standards, law, or regulation. It is imperative that such decisions be brought to the attention of OPM so that action may be taken to resolve the inconsistency.

6-6. EXCEPTIONS

The following issues are among those that may not be appealed by an employee under this subchapter. Items a through e may be reviewed under agency administrative or negotiated grievance procedures if applicable.

a. The accuracy of the official position description including the inclusion or exclusion of a major duty in the official position description. (See subsection 6-7e for additional information on resolution of such issues.)

b. An assignment or detail out of the scope of normally performed duties as outlined in the official position description.

c. The accuracy, consistency, or use of agency supplemental classification guides.

d. The title of the position unless a specific title is authorized in a published OPM classification standard or guide, or the title reflects a qualification requirement or authorized area of specialization.

e. Coverage under the performance Management and Recognition System (PMRS). These determinations are the responsibility of the agency.

f. The class, grade, or pay system of a position to which the employee is not officially assigned by an official personnel action.

g. An agency's proposed classification decision.

h. The class, grade, or pay system of a position to which the employee is detailed or temporarily promoted. However, employees serving under term promotions under section 335.102(g), title 5, Code of Federal Regulations, may appeal the classification of their position under these procedures.

i. The classification of the employee's position based on

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position-to-position comparisons and not standards published by OPM.

j. The accuracy of grade level criteria contained in an OPM classification guide or standard.

k. A classification appeal decision previously issued by OPM unless there has been a subsequent change in the governing classification standard(s) or the major duties of the position. <Page:511-18>

General Schedule Classification Appeals Under 5 C.F.R. Part 511

\*FORM--OMITTED\* <Page:511-19>

<Table: 1> General Schedule Classification Appeals to OPM

<Footnote: 1>

6-7. PROCEDURES

a. Employee options are available in filing a classification appeal. See Figure 1.

b. Agency Appellate System. Each agency is strongly encouraged to establish a system for deciding employee classification appeals. If such a system is established, procedures should be written and available to all employees. These procedures should apply to all positions for which the agency has classification authority. Unless administratively impossible, the final agency appeal decision should be made at least one administrative level above the level which originally classified the position. Employees are encouraged to appeal to their agency before appealing to OPM if the agency has an established appeals system; however, they are not required to do so.

c. Effect of filing an appeal on other appeal or grievance rights.

(1) The filing of a classification appeal does not affect any other rights or privileges the employee may have under other provisions of law or regulation. However, since the classification of the position may be raised as an issue in other appeals or administrative procedures, it is advisable that the employee file a classification appeal whenever the agency's classification decision becomes an issue. The filing of such an appeal will resolve the classification issue.

(2) Wrongful demotion. If an agency effects a classification action resulting in actual loss of grade <Page:511-20> or pay to an employee and the employee files a timely classification appeal and that classification action is subsequently found to be in error, the employee may be entitled to retroactive corrective action. The agency must review all administrative actions taken after such a wrongful demotion. Each action must be reconstructed on the basis of the correct classification as specified in the appeal decision with full regard to the rules governing effective dates. In these cases, the employee must be given full information about the conditions warranting retroactive adjustment. NOTE: Since the Civil Service Reform Act was enacted, most employees will be entitled to saved grade/pay under FPM Chapter 536 and will not actually be

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(Continued)

adversely affected by the classification decision. Therefore, they will not be entitled to any procedural or appeal rights under FPM Chapter 752 (but will retain their normal classification appeal rights under FPM Chapter 511). However, in those very few instances which may occur, where there is a need to protect a right to potential retroactive corrective action, the following conditions apply:

(a) The employee must file the classification appeal in a timely manner. To be considered timely:

(i) The appeal must be filed with the agency or OPM no later than 15 calendar days following receipt of written notification of a final agency administrative decision or 15 calendar days after the effective date of the agency personnel action whichever is later; and

(ii) If finally filed with the agency and the agency's decision is unfavorable, the subsequent appeal to OPM must be filed no later than 15 calendar days after receipt of the agency's decision.

(b) The classification appeal decision must reverse in whole or in part a classification action which changed the position to a lower grade or resulted in loss of pay. The classification appeal decision must find the classification action resulting in wrongful demotion was based on a classification error. The appeal decision must be based on duties and responsibilities assigned and performed at the time the wrongful demotion occurred and not on duties and responsibilities assigned later.

(c) The employer must not be eligible for retained grade or pay.

(d) Extension of time limits. OPM may extend the above time limits if an employee was not notified of the limits and was not otherwise aware of them, or if circumstances beyond the employee's control prevented filing an appeal within the prescribed time limit.

d. When classification appeals may be filed.

(1) Employees and agencies. Employees may file a classification appeal at any time. See Figure 2 for when and what kind of classification appeals may be filed by agencies and employees as well as impact of filing appeals.

(2) Agency-directed classification actions. The filing of a classification appeal does not automatically stop a classification action taken by an agency at its own initiative. The agency's policies govern in such cases. Agencies are encouraged not to cancel, postpone, or take alternative personnel actions solely because an employee has filed an appeal.

(3) OPM-directed classification actions. An employee or agency appeal of a certificate issued by OPM (under sections 5103, 5110, or 5112, title 5, U.S.C.) or a request for reconsideration of a certificate on an appeal decision does not alter the implementation date specified in the certificate unless a suspension is specifically granted.

e. Submitting a classification appeal.

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(Continued)

(1) Resolving issues of position description accuracy. If the official position description is considered inaccurate, the employee should attempt to resolve the matter within the agency before appealing to OPM, since it is management's right to assign work. This might be done by requesting a desk audit or by using the administrative or negotiated grievance procedure. If this fails to resolve the matter, OPM will decide the appeal on the basis of the actual duties assigned by management and performed by the employee. In the absence of evidence that a reasonable attempt has been made to resolve the issue of position description accuracy, the appeal will be returned to the employee for an attempt at resolution before OPM adjudicates the appeal.

(2) Content of classification appeals. See Appendix E for information to be submitted by the employee and/or agency. <Page:511-21>

(3) Where to submit appeals. Initial appeals to OPM should be directed to the office having jurisdiction over the geographic area where the position is located. (See appendix B.) Appeals of positions that have been certified by OPM under section 5110, title 5, U.S.C., and all requests for reconsideration will be submitted to the Chief, Classification Appeals Office, regardless of the position's geographical location.

f. Action to be taken during the conduct of an appeal.

(1) By the employee. An employee must cooperate in the adjudication of an appeal by promptly furnishing information requested by OPM. Information requested will be forwarded within 15 calendar days from the date of the letter unless a longer period is granted by OPM.

(2) By the Office of Personnel Management. (a) Upon receipt of an appeal, OPM will send an acknowledgment letter to the employee or the employee's representative and to the employing agency. OPM will make any necessary inquiries to ascertain the nature and scope of the duties, responsibilities, and qualification requirements of the position. The employee, the employee's representative, or the agency may be asked to furnish information either orally or in writing. OPM will determine if there is a need for onsite review of the position. This determination is totally at the discretion of the deciding official.

(b) Upon completion of its review, OPM will issue a classification certificate specifying the decision on the appeal. Copies will be provided to the employee (or the employee's representative) and to the employing agency.

(3) By the agency. (a) The employing agency will provide all information requested by OPM within 15 calendar days unless a longer time is granted by OPM. If the requested information is not received within a reasonable time, OPM may adjudicate the appeal on the basis of information contained in the record. Upon notification that an appeal has been accepted by OPM, the agency will cancel any classification appeal pending

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(Continued)

under agency procedures. If the appellant leaves the position being appealed (e.g., by reassignment, promotion, separation), the agency will notify OPM of the change.

(b) When an appeal is directed to OPM through the agency, the agency has 60 calendar days to review the employee's request and issue an appeal decision. If the agency agrees with the classification requested by the employee, it will take appropriate corrective action and close the appeal. If the decision is unfavorable or if the agency has not completed its review within 60 days, the appeal must be forwarded to OPM. If the agency does not have authority to act on the appeal (e.g., if the appealed position is a position previously certified by OPM), it will forward the record to OPM as soon as possible. The agency will notify the employee in writing when it forwards the appeal to OPM.

g. Employee representative.

(1) Choice of a representative. An employee may select a representative of his or her choice to assist in the preparation and presentation of an appeal. An agency may disallow an employee's representative when the individual's activities would cause a conflict of interest or position; or when the individual cannot be released from his or her official duties because of the priority needs of the Government; or when the individual's release would give rise to unreasonable costs to the Government. The appellant's representative cannot be: (a) A superior with line or staff authority over the position; or (b) Any official having classification authority over the position, e.g., personnel officer or position classification specialist.

(2) Destination of representative. The appellant must notify OPM in writing of the name and address of the representative if one is selected.

(3) Duties of the representative. A representative has the same obligation to cooperate in processing the appeal as does the appellant. The representative should promptly relay instructions from OPM to the appellant and will be expected to provide information promptly to OPM upon request.

(4) Participation in fact-finding. The selection of a representative does not convey a right to the representative to be present during fact-finding conducted by OPM. The deciding official is responsible for determining the best method of gathering facts concerning the duties, responsibilities, and qualification requirements of the appealed position. However, the representative may submit information which is significant to the classification of the position.

h. Access to appeal file.

The employee, the employee's representative, and the agency may review the official appeal record maintained by OPM. The review may be arranged by contacting the deciding official. The deciding



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(Continued)

official will establish the date, time, and place where the file can be reviewed. Agencies will make available to the appellant or the appellant's representative copies of all information forwarded to OPM in connection with the appeal.

i. Cancellation of an appeal. (1) OPM will cancel an employee's appeal when:

(a) the employee withdraws the appeal;

(b) the employee is no longer officially assigned to the position, unless there is a possibility of retroactive benefit (a temporary assignment to a different position will not be cause to cancel an appeal); or

(c) the employee fails to provide requested information or otherwise fails to cooperate in the adjudication of the appeal.

(2) An appeal canceled for noncooperation cannot be reopened unless the appellant was unable to provide requested information for reasons beyond his or her control.

j. Appeal decisions made by OPM.

(1) Finality of decisions. An appeal decision constitutes a certificate which is mandatory and binding on all administrative, certifying, payroll, disbursing, and accounting officials of the Government and is not subject to further appeal.

(2) Content of decision. Normally, an OPM certificate will specify the correct pay plan, occupational series, and grade of the appealed position. If the governing classification standard prescribes position titles, the certificate will also specify the title. However, if the certificate changes the pay plan (e.g., WG to GS) OPM may, at its discretion, decide only the pay plan and remand the appeal to the agency for classification within that pay plan. If dissatisfied with the agency's decision on the remand, the employee may then file a subsequent appeal with OPM.

(3) Effective date. The deciding official will set a date by which the certificate must be implemented in accordance with section 7-3 of this chapter. The agency must establish an effective date and implement the certificate within the time period specified.

(4) Compliance. When a certificate directs a change in classification, OPM will require a compliance report from the agency indicating the nature of action taken with respect to the appellant and the position. The deciding official will determine the date the compliance report must be submitted.

(5) Effect on other positions. Agencies must ensure that their classification of identical, similar, and related positions is consistent with OPM certificates. Appendix C provides additional information concerning internal consistency.

k. Reconsideration of an OPM classification appeal decision.

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(Continued)

(1) Either the agency or the employee may request reconsideration of an OPM appeal decision. See Figure 2 pertaining to timeliness and impact. A decision may be reopened and reconsidered when written information is presented, within 45 calendar days of the date of the decision, that establishes reasonable doubt as to the technical accuracy of the decision or provides evidence that material facts were not considered in the initial appeal. To establish reasonable doubt, the requester should refer specifically to the decision and the classification standards to demonstrate possible error in the evaluation of the position.

(2) Reopening by Classification Appeals Office. The Classification Appeals Office, OPM, may at its discretion reopen and reconsider any appeal decision made by itself or by an OPM region when information is presented, in writing, which establishes a reasonable doubt as to the technical accuracy of the decision or provides evidence that material facts were not considered in the initial appeal.

(3) Reopening by Director. The Director of OPM may, at his or her discretion, reopen and reconsider any decision issued when written argument or evidence is submitted which tends to establish that: (a) The previous decision involves an erroneous interpretation of law or regulation, or a misapplication of established policy; or

(b) The previous decision is of a precedential nature involving a new or unreviewed policy consideration that may have effects beyond the actual case at hand, or is otherwise of such exceptional nature as to merit the personal attention of the Director.

(4) Resolution of questions of fact. A decision under reconsideration may be remanded to the appropriate OPM region when extensive fact-finding is required or when material information is presented which was not previously considered. Questions of fact will be resolved at the regional level whenever practicable. <Page:511-23>

(5) Effective date. When a decision is made upon reconsideration to change the classification specified in the original decision, a new effective date will be established.

1. Suspension of an appeal decision.

(1) Requesting a suspension. Agency personnel officers are advised to weigh the consequences of implementing a certificate when they believe the decision is in error. An agency or the affected employee may request suspension of a certificate which directs a change in the classification of a position. The reopening of an appeal does not automatically suspend the required implementation of a certificate. Therefore, a request to suspend a certificate should be made when requesting a reopening and reconsideration of a classification appeal. A suspension may be granted only if the request establishes a basis for reconsideration. (See subsection 6-7k.) If the appeal decision required a downgrading and the

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(Continued)

employee is entitled to retained grade or pay, a suspension normally will not be granted.

(2) Authority to suspend. The determination to suspend implementation may be made by: an OPM regional director or a designee when the decision is made by the regional office; or the Chief, Classification Appeals Office; the Assistant Director, Agency Compliance and Evaluation, or a designee when the appeal decision is made within the central office or by a region; or the Director with respect to any appeal decision.

(3) Effect of a suspension. If the certificate is sustained on reconsideration, it must be implemented retroactively by the agency as of the date specified in the original certificate unless it directs a downgrading. In the case of a downgrading, a new effective date will be established in the reconsideration decision.

m. Temporary compliance authority.

(1) Applicability. Under certain limited circumstances, an agency may implement a certificate using temporary compliance authority as specified in section 511.615 of title 5, Code of Federal Regulations. The purpose of this authority is to allow agencies to grant an appellant any immediate benefit a certificate may warrant pending final resolution of the case without requiring later adverse action if the certificate is reversed. Temporary compliance actions include temporary promotions and temporary reassignments. Temporary compliance actions must comply with applicable guidance and regulations (e.g., FPM Chapter 335).

(2) Conditions required. In order to use temporary compliance authority, the following conditions must be met:

- (a) the position has been certified by OPM under section 5103, 5110, or 5112(b) of title 5, U.S.C.;
- (b) OPM has not suspended the certificate; and
- (c) either the agency or the employee has requested reconsideration of the decision.

(3) Temporary compliance authority will not be used if the certificate directs a downgrade and the employee is entitled to retained grade or pay.  
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<Footnote: 1> The filing of position classification appeals does not affect any other appeal rights or privileges under other provisions of law.

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